

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**VIRNETX INC. AND
SCIENCE APPLICATIONS
INTERNATIONAL CORPORATION** §
§ Civil Action No. 6:10-cv-855-RWS
§
§ **Jury Trial Demanded**
v. §
§
§
APPLE INC. §

RENEWAL OF APPLE'S DAUBERT MOTIONS

In accordance with the Court's Tenth Amended Docket Control Order (D.I. 539), Apple Inc. ("Apple") hereby renews the following *Daubert* motions, which were filed in this case. This renewal is for preservation purposes, and, therefore, the rulings carry to this trial unless otherwise modified by the Court.

Apple's Daubert Motions from the -855 Action

- Apple moved to exclude the testimony of Mr. Roy Weinstein under *Daubert*. (855 D.I. 217, 243, 323, 354.) Before the Court's ruling, VirnetX withdrew Mr. Weinstein's at-risk profits model. (855 D.I. 338 at 7.) The Court denied the remaining grounds of Apple's motion. (855 D.I. 362 at 4.) Should VirnetX attempt to pursue Mr. Weinstein's at-risk profits model, Apple further requests that the Court rule on that aspect of the Weinstein *Daubert*.
- Apple requested to file a motion to exclude the testimony of Dr. William Wecker under *Daubert*. (855 D.I. 216, 242.) The Court denied Apple's request but held that Apple "may raise arguments concerning Dr. Weinstein's reliance on this data in Defendant's motion to strike Dr. Weinstein." (855 D.I. 303 at 2.) The Court denied Apple's motion to exclude the testimony of Mr. Weinstein, including his testimony relying on Dr. Wecker. (855 D.I. 362 at 4.)
- Apple moved to exclude the testimony of Dr. Mark Jones under *Daubert*. (855 D.I. 215, 241, 317, 351.) The Court denied Apple's motion. (855 D.I. 362 at 3.)

Dated: January 8, 2018

Respectfully submitted,

/s/ Robert A. Appleby

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ATTORNEYS FOR APPLE INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on January 8, 2018.

/s/ Robert A. Appleby
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